

REMARKS

In the Office Action,¹ the Examiner rejected claims 2-5, 7, and 8 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement, and rejected claims 2-5, 7, and 8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,739,548² to Revital et al. ("Revital") in view of U.S. Patent Application Publication No. 2002/0001386 of Akiyama ("Akiyama").

By this Reply, Applicants have amended claims 2, 7, and 8. Support for the amendments can be found in the specification, for example, FIGS. 4 and 17, page 19, line 20 - page 20, line 7, and page 54, line 12 - page 58, line 6. Claims 2-5, 7, and 8 are currently pending, with claims 2, 7, and 8 being independent. Claims 1, 6, and 9 were previously canceled without prejudice or disclaimer. Based on the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

I. The § 112, First Paragraph, Rejection of Claims 2-5, 7, and 8

The Examiner rejected claims 2-5, 7 and 8 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement "because the limitation of the first and second sublicenses acquisition before the first content is not supported by the original disclosure." Office Action at 2-4. Although

¹ The Office Action may contain statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

² Although the Office Action cites U.S. Patent No. 7,739,548, the Examiner informed Applicants' representative via telephone on April 29, 2009, that the Examiner should have cited U.S. Patent No. 7,379,548. Applicants respectfully request appropriate corrections in any future correspondence.

Applicants disagree, in order to advance prosecution, Applicants have amended claims 2, 7, and 8 to remove the claim language, “the sublicense acquisition means acquires the first sublicense corresponding to the first content and the second sublicense corresponding to the second content before the first content is acquired.” Claims 3-5 depend from amended independent claim 2, and were rejected under 35 U.S.C. § 112, first paragraph, solely for depending from amended independent claim 2. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 112, first paragraph, rejection of claims 2-5, 7, and 8.

II. The § 103(a) Rejection of Claims 2-5, 7, and 8

Applicants respectfully traverse the § 103(a) rejection of claims 2-5, 7 and 8 over Revital in view of Akiyama because a *prima facie* case of obviousness has not been established with respect to claims 2-5, 7, and 8.

Amended independent claim 2 recites, among other things, “the first content being unrelated to the second content in a manner that the first content can be reproduced without the second content [and] the first sublicense and the second sublicense being added to the first content such that the sublicense acquisition means acquires the first sublicense and the second license while the first content is being acquired.” Revital and Akiyama, taken alone or in combination, fail to teach or suggest at least the recited elements of amended independent claim 2.

The section of Revital cited by the Office Action discloses a “scrambled digital content which features a plurality of ECMs, each of which is associated with and is typically followed by, a scrambled digital data segment, containing the actual digital content.” Revital, col. 3, lines 5-15. The scrambled digital data segments of Revital are

related and are portions of the same content, and therefore, Revital does not teach or suggest “the first content being unrelated to the second content in a manner that the first content can be reproduced without the second content,” as recited in amended independent claim 2. Observing this deficiency of Revital, the Examiner asserted that “[t]he claims’ first content and second content do not require they are unrelated, [and thus] [t]hey are being interpreted as portions of the content stream.” Office Action at 5. Independent claim 2, as amended, however, recites “the first content being unrelated to the second content in a manner that the first content can be reproduced without the second content,” and therefore, the Examiner cannot interpret the first content and the second content as provided in the Office Action.

In addition, even assuming *arguendo*, that the first content and the second content could be interpreted as provided by the Examiner, which Applicants disagree, nowhere does Revital teach or suggest a sublicense corresponding to any content other than a first content being added to the first content. For example, although Revital discloses that “protected content is transmitted to the set-top box . . . with the ECM” and “the ECM [is] sent with the content itself,” Revital does not teach or suggest an ECM of another content being added to the “protected” content. Revital, col. 16, lines 12-20. Therefore, Revital fails to teach or suggest “the first sublicense and the second sublicense being added to the first content such that the sublicense acquisition means acquires the first sublicense and the second license while the first content is being acquired,” as recited in amended independent claim 2.

Akiyama fails to cure these deficiencies of Revital, and the Office Action does not dispute otherwise as Akiyama is relied upon only for its alleged teachings of “using digital signatures to secure the transportation of licenses (107)” Office Action at 8.

For at least the above reasons, the Office Action has failed to clearly articulate a reason why amended independent claim 2 would have been obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to independent claim 2, and the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Amended independent claims 7 and 8, although of different scope, recite elements that are similar to the elements recited in amended independent claim 2. For reasons similar to the reasons set forth above with respect to amended independent claim 2, a *prima facie* case of obviousness has not been established with respect to amended independent claims 7 and 8, and therefore, the rejection of independent claims 7 and 8 under 35 U.S.C. § 103(a) should be withdrawn.

Dependent claims 3-5 depend from amended independent claim 2. Dependent claims 3-5 are thus allowable at least by virtue of their dependence from an allowable independent claim. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 103(a) rejection claims 3-5 based on Revital and Akiyama.

III. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this Reply and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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